



COUNCIL OF THE DISTRICT OF COLUMBIA
Michael A. Brown, Councilmember At-Large
Chairperson, Committee on Housing and Workforce Development

September 16, 2011

Dear Colleagues,

There have been numerous accounts in the media, as well as gross misstatements by a few vocal, yet misinformed, members of the public at the public roundtable in June 2011 and to the press about the iGaming provision in the 2011 BSA and the implementation of the program by the DC Lottery.

I would like to address some of these issues as well as to set the record straight.

1. iGaming's inclusion into the BSA . Previous to its submission, the iGaming provision was properly vetted through Council procedures similar to several other amendments to the 2011 Budget Support Act presented in that Legislative session and others. This included a review of the language and fiscal impact statement from the Office of the Chief Financial Officer (CFO) and a determination by the General Counsel of the Council that the iGaming provision was germane and legally sound.

I briefed my Council colleagues at the Council breakfast meeting prior to first reading, where members of the press were present. In early December, several media outlets reported on the provision. [See *Washington Post* on December 8th and December 9th; *Washington Times* on December 7th; *DCist* on December 8th and *City Paper* on December 9th.] Further, the iGaming provision was widely circulated and highlighted as a new Subsection of the 2011 Supplemental Budget Support Act (BSA) for the December 7, 2010 first reading and subsequently was re-circulated on Dec. 20th and 21st without dissent or alteration.

The iGaming provision was presented as an innovative and viable revenue enhancing vehicle to secure our social safety net and to balance our budget during a time of fiscal crisis. Additionally, it is a responsible way to regulate a practice that is already occurring everyday in the District of Columbia. The initial numbers put forward by the Office of the CFO are admittedly conservative. However, once fully implemented, iGaming is expected to bring in annual revenue upwards of \$6 million. In a time of shrinking revenues, this is significant and meaningful in funding much-needed programs.



2. No new procurement. There has been some discussion about whether there should have been a new procurement for iGaming. My office, after consulting with the Office of the Chief Financial Officer and the DC Lottery, has learned that all bidders on the lottery contract included some form of iGaming in their proposals as an "offered option." The solicitation invited bidders to suggest and include in their bids ideas for non-traditional lottery games. As the option for iGaming had already been procured, attempting a new procurement for the same thing would possibly have opened up the government to legal claims.
3. There is no Federal pre-emption. On Friday, April 15, 2011, the U.S. Department of Justice unsealed an indictment against the founders of the three of the most popular online gambling platforms, seizing their domain names, freezing accounts, and shutting them down. All three of these sites were located off-shore and not in the United States. The bulk of the charges stem from alleged violations of the Uniform Internet Gambling Enforcement Act (UIGEA) and related counts for money laundering and bank fraud.

The actions of the off-shore operators stand in stark contrast to the legal and regulatory framework for DC iGaming. UIGEA specifically exempts from the definition of unlawful internet gambling activity that activity which is offered and played intra-state, among other things. The District's top legal officer, Attorney General Irv Nathan, has unequivocally opined that our statute is in compliance with all applicable federal laws.

4. DC is not the only jurisdiction moving forward with iGaming. Online gaming is a natural progression of lottery systems. Many other states, including New York, Illinois, California, Nevada, Iowa, and Florida are in various stages of considering legislation to authorize online gaming.
5. Concerns about security. It has been alleged that the DC government is not capable of securing an iGaming site. My office has been assured by the DC Lottery that the lottery vendor is employing world-class anti-hacking technology and has retained some of the world's best anti-hacking experts. Further, the vendor is bearing all costs for securing the iGaming platform. No DC taxpayer funds will be expended. There are three security filters for age verification and there are two filters for geo-location filters and if a player cannot pass through any one of the five filters, they will be kicked out of the system.
6. Not affecting the poorest residents. Many have alleged that iGaming will most detrimentally affect the poorest and most vulnerable of our residents. This in fact is not the case. Unlike traditional gambling activities, iGaming tends to be played by individuals in medium-to-high income levels. In order to play iGaming through the DC Lottery, a player must have a bank account, a computer and an internet connection. Our neediest residents generally do not have all three items. According to the National Center for Children in Poverty at Columbia University, among all families who live in extreme poverty (incomes below 50 percent of FPL), overall, only one-third of families have a bank account (32 percent). However, among African-American families, only 15% of those at that same income level have a bank account. [See http://www.nccp.org/publications/pub_918.html.] Further, the limited amount of research on the demographics of individuals who play online games show that the majority of players make in excess of \$60,000/year.

7. Costs of implementation. It has been alleged that the costs of implementing iGaming will be significant and will be paid for with DC tax dollars. This is simply not the case. The vendor is bearing all implementation costs.
8. Hotspots. It has been alleged that so-called iGaming hotspots are tantamount to “gambling parlors” full of gaming terminals. This is not true. In addition to residential play, iGaming will be offered in commercial venues. So-called “hotspots” are merely commercial establishments that wish to expedite iGaming play for its patrons by pre-registering their IP addresses with the DC Lottery, which will accelerate the process by which players are verified to be within the confines of the District of Columbia. This is an additional level of security. There will be no gaming terminals in the District of Columbia, as this is prohibited by Federal law. All iGaming will be played on a personal computer. Further, it has been alleged that these “hotspots” will attract nuisance and crime. There is absolutely no evidence to support this, as iGaming will not involve cash transactions.
9. Gaming on government property/buildings. According to the DC Lottery, access to DC iGaming will be blocked from all federal and District government buildings. This includes, but is not limited to schools, rec centers, and libraries. Additionally, any business or other organization can block access from their site. I have been assured by the DC Lottery that potential users will not be able to log-in, even via their own personal wi-fi access, from any blocked location.
10. Problem gambling/gambling addiction. The DC Lottery is working with nationally-recognized experts at the National Council on Problem Gambling to establish a strong program to ensure that we are socially responsible in our delivery of products to the playing public. The program will include opt-out provisions for players, as well as problem gambling identification software that will alert the DC Lottery to potential problems.
11. Conflict of interest. The Washington Post, in particular, has made a considerable effort to try to assert that I had a conflict of interest regarding introducing iGaming legislation. My former employment with the firm Edwards Angell Palmer & Dodge had no influence on my legislative actions and presented no conflict of interest. Additionally, I did not work on any gaming issues at my former firm. In fact, I believe you would concur with the Attorney General, who stated that the Washington Post’s assertions are “a stretch”, especially because I introduced the legislation after the contract was awarded to a competitor of my former firm’s client. There was not then, and there is not now, any conflict.
12. Slots. I do not support any type of slot-machine gaming in the District of Columbia. I have made my position very clear to the Mayor and the Director of the DC Lottery. This legislation does not authorize the installation of any type of slot machine or gambling device in the District of Columbia.

I hope this letter has been instructive in dispelling the many misperceptions about iGaming in DC.
Please do not hesitate to contact me if you have any further questions.

Sincerely,



Michael A. Brown

cc: ANC Commissioners